

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Charles A. Finn, et al)	PATENT APPLICATION
Serial No.	To Be Assigned)	Reissue of
Filed:	December <u>11</u> , 1997)	Patent No. 5,474,551
For:	UNIVERSAL COUPLER FOR)	Examiner: Unknown
	SPINAL FIXATION)	Group Art Unit: 3309

REISSUE APPLICATION DECLARATION UNDER
37 C.F.R. §1.175 AND POWER OF ATTORNEY

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:


I, Scott Sherman, hereby declare that:

- 1) I am a citizen of the United States, and that my residence and Post office address is as stated below;
- 2) The entire title to U.S. Letters Patent No. 5,474,551 which issued on December 12, 1995 to Charles A. Finn, et al, is vested in Charles A. Finn and in United States Surgical Corporation;
- 3) I have reviewed and understand the contents of the foregoing specification and claims, including the new claims, and thoroughly believe that I and Charles A. Finn are the original and first inventors of the subject matter which is described and claimed in Letters Patent No. 5,474,551, and the foregoing specification, for which I solicit a reissue patent;
- 4) I do not know and do not believe that the invention for which I solicit a reissue patent was ever known or used in this country before the invention thereof, or patented or described in a printed publication in any country before the invention thereof or more than one year prior to the date of the application that matured into said patent, or in public use or on sale in the United States more than one year prior to the date of the application that matured;

5) I believe the original patent to be partly inoperative by reason of claiming more or less than I had a right to claim in the patent, as specified hereinafter.

6) I contend that the allowed independent claims, namely, claims 1, 8 and 16, in Letters Patent No. 5,474,551 do not specify, as broadly as I had a right to claim, my novel coupler.

7) It is my contention that the broad concepts of: 1) a spinal rod coupler assembly comprising a coupler member having a first opening dimensioned to slidably receive a spinal rod and a second opening dimensioned to receive a locking fastener to retain the spinal rod within the coupler member, and a fastener receiving member being mountable in the third opening of the coupler member and having an opening to receive a bone fastener, the fastener receiving member rotatably and slidably mounted with respect to the coupler member to adjust the position of the fastener; 2) a spinal rod coupler comprising a first opening dimensioned to slidably receive a spinal rod and having a first longitudinal axis extending therethrough, a second opening dimensioned to receive a locking fastener and having a second longitudinal axis extending therethrough transverse to the first longitudinal axis, and a third opening dimensioned to slidably receive an elongated connector to mount a bone fastener, the third opening having a third longitudinal axis extending therethrough transverse to the first longitudinal axis and the second longitudinal axis; and 3) a spinal rod coupler assembly comprising a coupler having a first opening to receive a spinal rod, a connecting member extending from the coupler, and a bone fastener positioned within the connecting member wherein movement of the connecting member with respect to the coupler adjusts the position of the bone fastener; as recited in new claims 17, 36, and 40, respectively, are patentable over the prior art. The additional elements recited in issued patent claims 1, 8 and 16 unnecessarily limit the claims.

8) Claims 1 and 8 require inter alia an eyebolt having a shank portion, the periphery of the first pair of openings of the coupler member spaced longitudinally from the periphery of the second pair of openings, and an insert that fits within the bore and has an outer

surface that generally conforms to the shape of the bore and has opposed, arc-shaped end portions with recesses for engaging the spinal rod and the eyebolt shank portion. Claim 16 requires inter alia an eyebolt member having a shank portion and the periphery of the first opening in the coupler member being spaced longitudinally from the periphery of the second opening. At least these elements are believed not necessary for patentability and are not present in the new independent claims of this reissue application.

9) Furthermore, new independent claim 47 differs from original claim 16 in that it omits the following recitations: the first and second lines being generally perpendicular to each other and spaced apart so that the periphery of the first opening is spaced longitudinally from the periphery of the second opening; and means for tightening the assembly of the rod and eyebolt in a selected position within the coupler member. I contend that these omitted recitations are not necessary for patentability and broader claim 47 is patentable over the prior art.

10) New claims 17-47 are of varying and broader scope commensurate with the invention disclosed in the specification. These claims are fully supported by the original disclosure of the patent.

11) I believe that new claims 17-47 overcome the defects in the original patent by claiming that which I had a right to claim in the original patent. All four new independent claims, i.e., claims 17, 36, 40 and 47, differ from the original independent patent claims 1, 8 and 16 by omitting the excess recitations contained therein.

12) I state that the errors in Letters Patent No. 5,474,551, i.e., the errors being corrected in this reissue application, arose without any deceptive intention on my part;

13) I hereby acknowledge the duty to disclose information which is material to the patentability and examination of this application in accordance with 37 C.F.R. §1.56;

DOCKET: 1968 REISSUE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Charles A. Finn, et al

Patent No.: 5,474,551

Date of Issue: December 12, 1995

Group: 3309

For: UNIVERSAL COUPLER FOR SPINAL FIXATION

Hon. Commissioner of Patents
and Trademarks

Washington, D.C. 20231

Attention: Supervisory Primary Examiner

**CONSENT OF ASSIGNEE TO FILE A REISSUE
APPLICATION FOR THE ABOVE-NOTED PATENT**

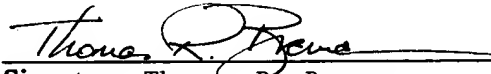
Sir:

Surgical Dynamics, Inc., co-owner by assignment of the above-identified patent in the assignment filed concurrently herewith in the U.S. Patent and Trademark Office hereby consents to the filing of the reissue application filed herewith.

ASSIGNEE CERTIFICATION

In accordance with 37 C.F.R. §3.73, the assignee hereby certifies that the evidentiary documents with respect to its ownership have been reviewed and that, to the best of the assignee's knowledge and belief, title is in the assignee seeking to take this action.

Dated: December 10, 1997



Signature Thomas R. Bremer

Vice President
Type or print name and title of person authorized
to sign on behalf of assignee

DOCKET: 1968 REISSUE
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Charles A. Finn, et al Patent No.: 5,474,551
Date of Issue: December 12, 1995 Group: 3309
For: **UNIVERSAL COUPLER FOR SPINAL FIXATION**

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231
Attention: Supervisory Primary Examiner

**CONSENT OF INVENTOR TO FILE A REISSUE
APPLICATION FOR THE ABOVE-NOTED PATENT**

Sir:

Charles A. Finn, co-inventor and co-owner of the above-identified patent hereby consents to the filing of the reissue application filed herewith.

Dated: 12/9/97

Charles A. Finn, M.D.
Signature

Charles A Finn, M.D.
Type or print name

DOCKET: 1968 REISSUE

REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER
(37 CFR 1.178)

To the Commissioner of Patents and Trademark:

The undersigned co-inventor and co-owner of the accompanying reissue application for the reissue of letters patent 5,474,551 for UNIVERSAL COUPLER FOR SPINAL FIXATION, granted on December 12, 1995, hereby offers to surrender said letters patent.

Signature: Charles A Finn, MD
Name: Charles A Finn, MD
Date: 12/9/97

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Charles A. Finn, et al)	PATENT APPLICATION
Serial No.	To Be Assigned)	Reissue of
Filed:	December <u>11</u> , 1997)	Patent No. 5,474,551
For:	UNIVERSAL COUPLER FOR SPINAL FIXATION)	Examiner: Unknown
			Group Art Unit: 3309

**REISSUE APPLICATION DECLARATION UNDER
37 C.F.R. §1.175 AND POWER OF ATTORNEY**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Charles A. Finn, hereby declare that:

- 1) I am a citizen of the United States, and that my residence and Post office address is as stated below;
- 2) The entire title to U.S. Letters Patent No. 5,474,551 which issued on December 12, 1995 to Charles A. Finn, et al, is vested in myself and in United States Surgical Corporation;
- 3) I have reviewed and understand the contents of the foregoing specification and claims, including the new claims, and thoroughly believe that I and Scott Sherman are the original and first inventors of the subject matter which is described and claimed in Letters Patent No. 5,474,551, and the foregoing specification, for which I solicit a reissue patent;
- 4) I do not know and do not believe that the invention for which I solicit a reissue patent was ever known or used in this country before the invention thereof, or patented or described in a printed publication in any country before the invention thereof or more than one year prior to the date of the application that matured into said patent, or in public use or on sale in the United States more than one year prior to the date of the application that matured;

5) I believe the original patent to be partly inoperative by reason of claiming more or less than I had a right to claim in the patent, as specified hereinafter.

6) I contend that the allowed independent claims, namely, claims 1, 8 and 16, in Letters Patent No. 5,474,551 do not specify, as broadly as I had a right to claim, my novel coupler.

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8) Claims 1 and 8 require inter alia an eyebolt having a shank portion, the periphery of the first pair of openings of the coupler member spaced longitudinally from the periphery of the second pair of openings, and an insert that fits within the bore and has an outer

surface that generally conforms to the shape of the bore and has opposed, arc-shaped end portions with recesses for engaging the spinal rod and the eyebolt shank portion. Claim 16 requires inter alia an eyebolt member having a shank portion and the periphery of the first opening in the coupler member being spaced longitudinally from the periphery of the second opening. At least these elements are believed not necessary for patentability and are not present in the new independent claims of this reissue application.

9) Furthermore, new independent claim 47 differs from original claim 16 in that it omits the following recitations: the first and second lines being generally perpendicular to each other and spaced apart so that the periphery of the first opening is spaced longitudinally from the periphery of the second opening; and means for tightening the assembly of the rod and eyebolt in a selected position within the coupler member. I contend that these omitted recitations are not necessary for patentability and broader claim 47 is patentable over the prior art.

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12) I state that the errors in Letters Patent No. 5,474,551, i.e., the errors being corrected in this reissue application, arose without any deceptive intention on my part;

13) I hereby acknowledge the duty to disclose information which is material to the patentability and examination of this application in accordance with 37 C.F.R. §1.56;

POWER OF ATTORNEY

I hereby appoint the following attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

JOHN C. ANDRES Reg. No. 30,931; NEIL D. GERSHON Reg. No. 32,225;
BASAM E. NABULSI Reg. No. 31,645; MARK FARBER Reg. No. 34,159;
NEIL Y. GILBERT Reg. No. 35,156; and CAROLYN H. BLANKENSHIP Reg.
No. 35,449, all of United States Surgical Corporation, 150 Glover Avenue,
Norwalk, Connecticut 06856.

I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 12/9/97


Charles A. Finn
5600 Central Avenue
St. Petersburg, Florida 33707
FI


POWER OF ATTORNEY

I hereby appoint the following attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

JOHN C. ANDRES Reg. No. 30,931; NEIL D. GERSHON Reg. No. 32,225;
BASAME E. NABULSI Reg. No. 31,645; MARK FARBER Reg. No. 34,159;
NEIL Y. GILBERT Reg. No. 35,156; and CAROLYN H. BLANKENSHIP Reg.
No. 35,449, all of United States Surgical Corporation, 150 Glover Avenue,
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Dated: 12-4-97



Scott Sherman
6515 Chadwick Cove
Horn Lake, Mississippi 38637 *MT*

DOCKET: 1968 REISSUE

**REISSUE APPLICATION BY THE ASSIGNEE, OFFER TO SURRENDER
(37 CFR 1.178)**

To the Commissioner of Patents and Trademark:

Surgical Dynamics, Inc., co-owner by assignment of the accompanying reissue application for the reissue of letters patent 5, 454,551 for UNIVERSAL COUPLER FOR SPINAL FIXATION, granted on December 12, 1995, hereby offers to surrender said letters patent.

Signature: Thomas R. Bremer

Name: Thomas R. Bremer

Title: Vice President

Date: December 10, 1997